

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 1104 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
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MOHMADHUSEN AHMADHUSEN TAI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Appeal No. 1104 of 1993
MR NITIN M AMIN for Petitioner No. 1-6
MR PM THAKKAR for Petitioner No. 1-6
Mr.A.J.Desai, learned A.P.P.for Respondent No. 1
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CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE SHARAD D.DAVE

Date of decision: 27/06/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.H.KADRI)

1. The appellants-original accused, by filing this appeal under Sec. 374(2) of the Code of Criminal Procedure, 1973 (to be referred to as the Code for the sake of brevity) have challenged the judgment and order dated 29.9.93 of the learned Addl. Sessions Judge, Ahmedabad (Rural) in Sessions Case no. 145/92 by which judgment and order the appellant no. 2 was convicted under Sec. 302 of the Indian Penal Code and sentenced for imprisonment of life whereas the appellant nos. 1,3,4,5 & 6 were convicted with the aid of Sec. 149 and Sec. 302 of I.P.C. and were also sentenced to rigorous imprisonment for life and fine of Rs.5,000/-, in default simple imprisonment for 2 years. The appellant nos. 3,4 & 5 were further convicted for the offence under Sec. 324 read with Sec. 149 of the I.P.C. and sentenced to undergo rigorous imprisonment for 3 years and fine of Rs.2,000/-, in default simple imprisonment for six months. All the sentences imposed on the appellants were ordered to run concurrently.

2. The brief facts of the prosecution case are as under : The complainant p.w. 1 Ismailbhai along with his brother Allarakha (since deceased) and elder brother p.w. 9 Ibrahimbhai Usmanbhai were residents of Katarwada, Viramgam. On March 9, 1991 a quarrel had taken place between deceased Allarakha and the brother of the appellant no. 1 in Viramgam town in connection with an accident caused by bicycle. In that incident, a knife blow was given by deceased Allarakha to the brother of the appellant no. 1 for which an F.I.R. exh. 61 was filed and the case was pending on the date of the incident. On July 14, 1992 the appellant no. 1 was sitting at the shop of his brother-in-law situated near Mundwad, taluka Viramgam around 8.45 a.m. At that time, deceased Allarakha and the complainant Ismailbhai came to the shop and told the appellant no. 1 to compromise the case for which F.I.R. exh. 61 was filed. When the appellant no. 1 did not agree to the suggestion put by the deceased Allarakha and the complainant, both of them had got excited and the complainant who was carrying hockey stick and deceased Allarakha who was carrying a knife gave blow of knife and hockey stick to the appellant no. 1. Due to inflicting of the blows by the knife and the hockey stick, the appellant no. 1 with the help of one DW-1 Razakbhai Kasambhai went to Viramgam police station and lodged a complaint. The F.I.R. lodged by the appellant no. 1 against the deceased Allarakha and the complainant is produced at exh. 59 on the record of this case. According to that F.I.R. that incident had taken place around 8.45 a.m. on July 14,

1992.

3. As per the prosecution case, on July 14, 1992 at about 8.45 a.m. p.w. 1 Ismailbhai Usmanbhai along with his two brothers deceased Allarakha and Ibrahimbhai Usmanbhai were at their house situated at Katarwada, Viramgam. It is alleged that at that time six persons (appellants) who were residing in the area of Taiwada came to the house of the complainant. All the six appellants were armed with weapons. It is alleged that the appellant no. 1 was armed with dharia whereas the appellant no. 2 was having iron pipe whereas the appellant nos. 3,4 & 5 were carrying knives in their hands and the appellant no. 6 was carrying a stick. All the appellants came to the house of the complainant and started abusing. Deceased Allarakha came out from his house and told the appellants why they were abusing. All the appellants got enraged and started giving blows with the respective weapons carried by them. As per the case of the prosecution, the appellant no. 1 had given a dharia blow to deceased Allarakha which fell on his right hand. The appellant no. 2 had given pipe blow on the left parietal region of the deceased Allarakha. At that time, p.w. 2 Saidaben who happens to be the cousin of the complainant came to the rescue of deceased Allarakha. The appellant no. 4 had given knife blow on the left hand of Saidaben whereas the appellant nos. 3 & 4 had also given knife blows on Saidaben. It is further the case of the prosecution that the appellant no. 1 had again given a dharia blow on the left leg of deceased Allarakha. According to the complainant, the appellant nos. 3,4 & 5 had also given knife blows on hands and legs of the deceased Allarakha. Meanwhile, two shopkeepers p.w. 3 Mehboobhai Ismailbhai and p.w. 7 Abdulrehmanbhai Ismailbhai arrived at the place of the incident and scolded the appellant and told them not to quarrel. On the arrival of the two witnesses as stated above, all the appellants had run away from the place of the incident. The complainant was also injured in the above fight and therefore he along with Saidaben and deceased Allarakha had gone to Viramgam Gandhi Hospital in an autorickshaw. The two shopkeepers had also accompanied them in another autorickshaw. P.W.1 complainant Ismailbhai Usmanbhai had lodged F.I.R. before p.w. 15 P.S.I. Mr.Patel at the Gandhi Hospital, Viramgam. The doctor on duty at the hospital examined deceased Allarakha and declared him dead. The complainant and injured Saidaben were treated at the hospital. The body of deceased Allarakha was sent for post mortem by holding inquest. Dr.Girish Parikh p.w. 5 exh. 23 performed the post mortem of the dead body of

deceased Allarakha and had also examined injured Saidaben and the complainant Ismailbhai. The injured Ismailbhai and Saidaben were referred to V.S.hospital where they were examined by p.w.8 Dr.Chandana. After recording the complaint, P.S.I. Patel went to the place of the incident and had drawn the panchanama. P.S.I.Patel had collected incriminating articles namely clothes put on by deceased Allarakha and other articles by drawing panchanama. All the appellants were arrested on the same day i.e. July 14, 1992. When the appellants were in the custody, they had shown their willingness to produce the muddammal weapons which had used during the course of the incident and accordingly the incriminating weapons were recovered under the panchanama drawn in the presence of independent witnesses. The appellant no. 1 who had sustained injuries in the incident which had taken place on the same day for which F.I.R. exh. 59 was filed before the Viramgam police station was sent for medical examination around 5.00 p.m. at the Gandhi Hospital. The investigation officer, after recording the statement of witnesses, had sent the incriminating articles to the F.S.L. On completion of the investigation and on the receipt of the report of the F.S.L., chargesheet came to be filed against the appellants for the offences punishable under Sec. 302, 324 read with Sec. 149 of I.P.C.

4. Charge exh. 3 was framed against the appellants for the offences punishable under Sec. 147, 148 and 149 of I.P.C. The appellants were further charged for offences under Sec. 504, Sec. 302 read with Sec. 149, Sec. 326, 324 read with Sec.149 of I.P.C. and under Sec. 135 of the Bombay Police Act. The charge was read over and explained to the appellants, wherein they pleaded non guilty and claimed to be tried.

5. In order to prove the charge levelled against the appellants the prosecution has examined i) p.w.1 exh. 17 complainant Ismailbhai Usmanbhai, ii) p.w.2 exh. 19 injured Saidaben Noormohammad, iii) p.w. 3 exh. 20 Shopkeeper Mehmoodbhai Ismailbhai, iv) p.w.4 exh. 21 Amratbhai Ravjibhai Patel, v) p.w. 5 exh. 23 Dr.Girish Parikh, vi) p.w. 6 exh. 28 Circle Inspector Bashirmohammad, vii) p.w. 7 exh. 32 shopkeeper Abdulrehman, viii) p.w. 8 exh. 33 Dinesh Chandana of V.S.hospital, ix) p.w. 9 exh. 35 eye witness Ibrahimbhai Usmanbhai (elder brother of the complainant), x) p.w.10 exh. 36 panch Abdullah Hazi, xi) p.w.11 exh. 39 panch Ismailbhai Usmanbhai, xii) p.w.12 exh. 44 panch Iqbal Noormohammad, xiii) p.w. 13 exh. 46 Ahmedbhai, xiv) p.w. 14 exh. 51 p.c. Ganpatsinh, xv) p.w.15 exh.

52 Investigating officer P.S.I. Manjibhai Patel. The prosecution produced documentary evidence which consisted of F.I.R., panchamas of place of incident, as well as of recovery weapons from the appellants, report of F.S.L., F.I.R. lodged by the appellant no. 1 etc. to prove the case of the prosecution.

6. After the prosecution case was over, the appellants were questioned with regard to the evidence led by the prosecution against them and their statements came to be recorded under Sec. 313 of the Code. The appellant no. 1 in his further statement stated that on July 14, 1992 at about 8.30 to 8.40 a.m., he was sitting at the shop of his brother-in-law situated at Mundwad. At that time, the complainant Ismailbhai along with the deceased Allarakha came to the shop. The complainant was carrying hockey stick and deceased Allarakha was carrying a knife. Both of them had told the appellant no. 1 to compromise the criminal case pending in the court with regard to the incident which had taken place on March 9, 1991. When the appellant no.1 refused to compromise the case, both of them had got excited and the deceased Allarakha had given knife blows on the right thigh whereas the complainant Ismailbhai had given hockey stick blow on the right foot of the appellant no. 1. After giving the blows, as many persons had gathered near the shop, the complainant and deceased Allarakha had run away. One Rajaqbhai Kasambhai had taken the appellant no. 1 to police station for lodging the F.I.R. against the deceased Allarakha and the complainant Ismailbhai. All the appellants in their further statements denied the prosecution case and stated that they had not committed any offence.

7. The learned Addl. Sessions Judge, on the appreciation of oral as well as documentary evidence and the arguments advanced by the respective counsel of the prosecution as well as the defence, held that on the date of the incident i.e. July 14, 1992, all the appellants had formed an unlawful assembly and were armed with deadly weapons and their common object was to kill deceased Allarakha and to cause injuries to the eye witnesses. It was further held that deceased Allarakha had died homicidal death. The learned Addl. Sessions Judge further concluded that the common object of the members of the unlawful assembly was to cause injuries to witness Saidaben. It was further concluded by the learned Addl. Sessions Judge that the accused no. 3,4 & 5 had a common intention to cause injuries on the deceased Allarakha as well as to cause injuries on witness Saidaben and complainant Ismailbhai. On the basis of

above referred conclusions, the learned Addl.Sessions Judge convicted all the appellants and sentenced them as stated above which has given rise to filing of this appeal.

8. Learned advocate Mr.Nitin M Amin and learned A.P.P. Mr.Desai had taken us through the entire record and proceedings of the case. Learned advocate for the appellants has submitted that prosecution has failed to prove the offence under Sec. 302 read with Sec. 149 of I.P.C. It is submitted that the witnesses examined by the prosecution were highly interested and related witnesses even though independent witnesses were available at the time of the incident. Learned counsel for the appellants submitted that the motive behind causing murder of Allarakha and inflicting serious injuries on the witnesses was trivial and ordinary. Learned counsel for the appellants contended that the investigation carried out by the investigating agency was partial. It is contended that even though F.I.R. was lodged by the appellant no. 1, the investigating officer had treated the second F.I.R. and the first F.I.R. as the counter-case or cross-case ignoring that the incident of both the F.I.Rs. were different and the place of the incidents were also different. It is contended that the Investigating Officer P.S.I.Patel had drawn a common panchanama of both the F.I.Rs. even when the place of incidents were altogether different. Learned Counsel for the appellants submitted that the identity of the appellant no. 1 was highly doubtful and he was not present when the incident had taken place. Learned Counsel for the appellants further submitted that as per the F.I.R., the name of the appellant no. 1 was mentioned as Mohammad Fakir Mohammad whereas the name of the appellant no. 1 is Mohammadhussain Abdulhussain. In this connection, it is urged by the advocate for the appellant that even though there was inconsistency in the name of the appellant no. 1 as stated in the F.I.R. and as stated in the statements recorded of the witnesses, no identification parade was held by the investigating officer. Learned counsel for the appellants further submitted that the prosecution has miserably failed to prove that there was a common object to kill the deceased Allarakha by the appellant nos. 3,4 & 5 and the appellant no. 6. It is submitted that the evidence of the prosecution witnesses only proved that the appellant no. 6 was present at the place of the incident. It is submitted that no over act or participation by the appellant no. 6 was deposed by the witnesses and therefore the appellant no. 6 should be acquitted from the charges framed against him. It is submitted that the

house of the appellant no. 6 was situated near the place of the incident and therefore his presence at the place of the incident was natural. It is contended by the learned counsel for the appellants that the appellant no. 1 soon after lodging of F.I.R. exh. 59 against the complainant and the deceased Allarakha had gone to the Viramgam Police Station and was detained there till 5.00 p.m. and thereafter he was sent to medical examination at the Gandhi Hospital for the injuries sustained by him in the incident which had taken place on same day at about 8.45 a.m. for which F.I.R. exh. 59 was lodged. It is contended by the learned counsel for the appellants that the F.I.R. lodged by the appellant no. 1 was first in point of time which was registered as C.R.I 145/93 whereas the F.I.R. lodged of the present case was registered as C.R.I 146/93. It is contended by the learned counsel for the appellants that as the appellant no. 1 had lodged F.I.R. against the complainant and the deceased Allarakha, he was falsely implicated as the accused no. 1 in the present case and his presence at the place of the incident was not at all proved. Learned counsel further submitted that the prosecution has miserably failed to prove that the appellants had formed unlawful assembly and their common object was to cause the murder of deceased Allrakha and to inflict injuries on the witnesses. It is contended that the muddammal articles recovered from the appellants were also not having any blood marks and further more the recovery panchanama drawn by the investigating officer was highly doubtful. It is contended by the learned counsel for the appellants that there was no evidence led by the prosecution for holding them guilty under Sec. 302 read with Sec. 149 of I.P.C. and at the most the appellants can be convicted and sentenced for their individual acts. In support of his submissions, learned counsel for the appellants has placed reliance on the decision of the Supreme Court in case of Sukhanrao and others V/s State of Bihar reported in 2002 S.C.C. (Cri.) 936. The learned counsel for the appellants further urged that mere presence in an assembly of persons does not make the accused a member of unlawful assembly unless it is shown by direct or circumstantial evidence and the accused share common object of the assembly. In support of his submissions, learned counsel has placed reliance on the case of Musakhan and others V/s State of Maharashtra reported in 1977 S.C.C. (Cri.) 164. Learned counsel for the appellants at the end submitted that the presence of the appellant no. 1 and 6 was highly doubtful whereas the prosecution has not led sufficient evidence to prove the doubt that all the appellants had formed an unlawful assembly having common object of causing murder of the

deceased Allarakha and causing injuries to the witnesses and therefore the appellants cannot be convicted with the aid of Sec. 149 of I.P.C. for the offences under Sec. 302 and 324 of I.P.C. and therefore the appeal be allowed and the judgment and order of the Sessions Court be quashed and set aside.

9. Learned A.P.P.Mr.A.J.Desai for the State of Gujarat on the other hand had tried to support the judgment and order recorded by the Addl.Sessions Judge. Learned A.P.P. submitted that there was a strong motive behind the commission of the crime by the appellants as prior to the date of the incident, the criminal case was lodged by the brother of the appellant no. 1 for which the deceased and the complainant were trying to compromise. It is contended that the prosecution had examined all the eye witnesses present at the place of the incident in which two injured eye witnesses had categorically deposed about the participation of the appellants. Learned A.P.P. submitted that the evidence of injured witnesses and the evidence of two independent witnesses who were having shops near the place of the incident had proved beyond doubt that the appellants were armed with deadly weapons and their common object was to cause the murder of deceased Allarakha and further to cause injuries to the eye witnesses. Learned A.P.P. further submitted that the oral evidence led by the prosecution was supported by corroborative piece of evidence in the nature of recovery panchanama and the report of the F.S.L. which implicated the appellants with the commission of the crime. Learned A.P.P. submitted that in a criminal trial it is not quantity of the evidence but the quality of the evidence which is to be appreciated in holding a person guilty for the offences for which he is charged. Learned A.P.P. submitted that the learned Addl. Sessions Judge has given cogent and convincing reasons in holding the appellants guilty for the offences for which they were charged and therefore the appeal filed by them should be dismissed.

10. Before holding a person guilty under Sec. 149 of I.P.C., the prosecution should establish that there was an assembly of five or more persons with a common object of causing the crime in question. We have carefully scanned through the evidence led by the prosecution. We do not find cogent evidence to hold beyond doubt that all the appellants had formed an unlawful assembly with a common object of which was to cause the murder of Allarakha and to cause injuries to the witnesses namely the complainant, p.w. 1 Ismailbhai and p.w. 2 Saidaben.

Therefore, in our view, the appellants cannot be held guilty of having committed offences under Sec. 149 of I.P.C. The appellant no. 1 was not named as accused no. 1 in the F.I.R. which was lodged by the complainant Ismailbhai produced at exh. 18. The name of the accused no. 1 in the said F.I.R. is mentioned as Mohammad Fakirmohammad and for mentioning that name, no satisfactory explanation is offered by the prosecution. Before lodging of the F.I.R. of the present case, the appellant no. 1 Mohammadhussain had already lodged the F.I.R. with Viramgam police station which was registered at CR I 145/93 and the time of the incident was stated at 8.45 a.m. near Mundwad area. P.S.I.Patel in his oral testimony had deposed that the said F.I.R. was lodged at 9.30 a.m. by the appellant no. 1. The evidence of Defence Witness no. 1 Rajaqbhai Kasambhai also supports the case of the appellant no. 1 that he was injured in the incident which had taken place at the shop of the brother-in-law of the appellant no. 1 in Mundwad area in which incident the appellant no. 1 had sustained injuries and he had accompanied the appellant no. 1 in an autorickshaw to the Viramgam Police Station. In the said F.I.R. lodged by the appellant no. 1, names of the complainant and deceased Allarakha were shown as accused who had caused injuries on the right leg of the appellant no. 1. When the appellant no. 1 presented himself before the police station, he was detained there and was not allowed to go even for medical assistance. Therefore, in our view, the presence of the appellant no. 1 at the place of the incident which is near Katarwada becomes highly doubtful. In our view, the name of the appellant no. 1 has been subsequently added in this case just to falsely involve him in the present case as he had lodged complaint against the deceased Allarakha and the complainant Ismailbhai. As the presence of the appellant no. 1 at the place of incident and his participation and causing injuries with the help of dharia becomes highly doubtful, therefore benefit of doubt should go in favour of the appellant no. 1. With regard to the presence of appellant no. 6, it is rightly submitted by the learned counsel Mr.Amin that no prosecution witnesses had deposed that the accused no. 6 who was armed with a stick had caused injuries on the deceased as well as the injured eye witnesses. As per the decision of the Supreme Court in case of Musakhan & others (supra), mere presence in an assembly of persons does not make the accused a member of unlawful assembly unless it is shown by direct or circumstantial evidence that the accused shared common object. No iota of evidence was produced by the prosecution to hold that the accused no. 6 had shared common object of the assembly of causing murder of

deceased Allarakha or to cause injuries to the eye witnesses. No over act has been attributed on the appellant no. 6. Hence, we are of the view that benefit of doubt should be extended in favour of the appellant no. 6.

11. That takes us to the question of the offences committed by the appellant no. 2,3,4 & 5. The participation of appellant no. 2 in giving a pipe blow on the left temporal region of the head of the deceased Allarakha is amply proved by the oral as well as the documentary evidence in the nature of post-mortem notes. There is unimpeachable evidence produced by the evidence to hold that the injury caused by the appellant no. 2 on the head of the deceased Allarakha was sufficient in the ordinary course of nature to cause his death. P.W.5 Dr.Girish Parikh who performed the post-mortem of the body of the deceased Allarakha in para 14 has deposed that the injury caused on the temporal region of the head of the deceased was not having multiple fractures. According to the opinion of Dr.Parikh, if the injury caused with the muddammal pipe by the appellant no. 2 was inflicted with force and with intention to cause murder, there would have been multiple fractures on the scalp. He categorically deposed that the injury no. 1 which was found on the temporal region of the deceased was of simple nature. The evidence of Dr.Parikh thus indicates that the appellant no. 1 had not caused the injury with the iron pipe with an intention to cause the murder of the deceased. In view of the above medical evidence, we are of the view that though the appellant no. 2 had caused injury on the vital part of the body of the deceased Allarakha, it was not caused with intention to causing the murder. Hence, in our view, the offence committed by the appellant no. 2 would fall under Part I of Sec. 304. Therefore, the conviction of the appellant no. 2 under Sec. 302 read with Sec. 149 deserves to be quashed and set aside and instead the appellant no. 2 is convicted for his individual act of having committed offence under Sec. 304 Part I of I.P.C. We therefore convict the appellant under Sec. 304 Part I of I.P.C. and sentence him to undergo rigorous imprisonment for 10 years and fine of Rs.5,000/-, in default simple imprisonment for six months.

12. That brings us to the question of the offences being committed by the appellant nos. 3,4 & 5. As per the evidence of the eye witnesses namely p.w. 1 Ismailbhai and p.w. 2 Saidaben, the appellant nos. 3,4 & 5 had given knife blows to them. The medical evidence of p.w.5 Dr.Parikh shows that the injuries sustained by

the complainant Ismailbhai and Saidaben were simple in nature. The medical evidence of p.w.8 Dr.Dinesh Chandana of V.S.hospital also suggests that the injuries sustained by complainant Ismailbhai and witness Saidaben were simple in nature and the injuries sustained by both the witnesses were possible by the infliction of blows with knife. In the F.I.R., it was not stated by the complainant that the appellant nos.3,4 & 5 had caused injuries with knives on the body of the deceased. Therefore, at the first instance, after the incident it was not stated by the complainant in the F.I.R. that the appellant nos. 3,4 & 5 had caused injuries with knives on the body of deceased Allarakha. The prosecution has not led evidence that the common object of the unlawful assembly was to cause injuries on the complainant Ismailbhai and the witness Saidaben. The learned Addl.Sessions Judge has convicted the appellant nos. 3,4 & 5 for offences under Sec. 324 read with Sec. 149 of I.P.C. and sentenced them to rigorous imprisonment for 3 years and fine of Rs.2,000/- each, in default simple imprisonment for six months. As held earlier, the prosecution has failed to prove the ingredients of Sec. 149 of I.P.C. However, from the evidence led down by the prosecution, it is borne out that the appellant nos. 3,4 & 5 had common intention to cause injuries to the witnesses i.e. p.w.1 Ismailbhai and p.w. 2 Saidaben. Hence, the appellant nos. 3,4 & 5 are convicted for the offences under Sec. 324 read with Sec. 34 of I.P.C. and sentenced to undergo rigorous imprisonment of one year each and pay fine of Rs.5,000/each, in default simple imprisonment for six months. The appellants nos. 3,4 & 5 for the offences under Sec. 324 read with Sec. 149 of I.P.C. is set aside and instead the appellant nos. 3,4 & 5 are convicted for the offence under Sec. 324 read with Sec. 34 of the I.P.C. Sentence imposed on them of rigorous imprisonment for 3 years and fine of Rs.2,000/is converted into rigorous imprisonment for one year and fine of Rs.5,000/- each, in default simple imprisonment for six months.

13. As a result of the aforesaid discussion, this appeal is partly allowed. The conviction and sentence imposed on the appellant no. 1 and appellant no. 6 by the learned Additional Sessions Judge, Ahmedabad (Rural), in Sessions Case No.145 of 1992, for the offence under Section 302 read with Section 149 of the Indian Penal Code is hereby quashed and set aside and they are given benefit of doubt. The appellant No.1 and the appellant No.6 are on bail. Their bail bonds shall stand cancelled.

The conviction and sentence imposed on the

appellant no. 2 for the offence under Section 302 of I.P.C. is converted into offence under Section 304 part I of I.P.C. and the appellant no. 2 is sentenced to rigorous imprisonment for 10 years and fine of Rs.5,000/-, in default simple imprisonment for six months.

The conviction of appellant nos. 3,4 and 5 under Sec. 302 read with Sec. 149 and sentence imposed on them is quashed and set aside. The conviction of appellant nos. 3,4 5 under Sec. 324 read with Sec. 149 of I.P.C. is converted into offence under Sec. 324 read with Sec. 34 of I.P.C. and each of them is sentenced to rigorous imprisonment for one year and each of them to pay fine of Rs.5,000/-, in default each of them to undergo simple imprisonment for six months. The appellants Nos.3, 4 and 5 are on bail. Their bail bonds shall stand cancelled.

The muddamal be disposed of in terms of the in the impugned judgment.

(M.H.KADRI, J)

(SHARAD D DAVE, J)

srilatha